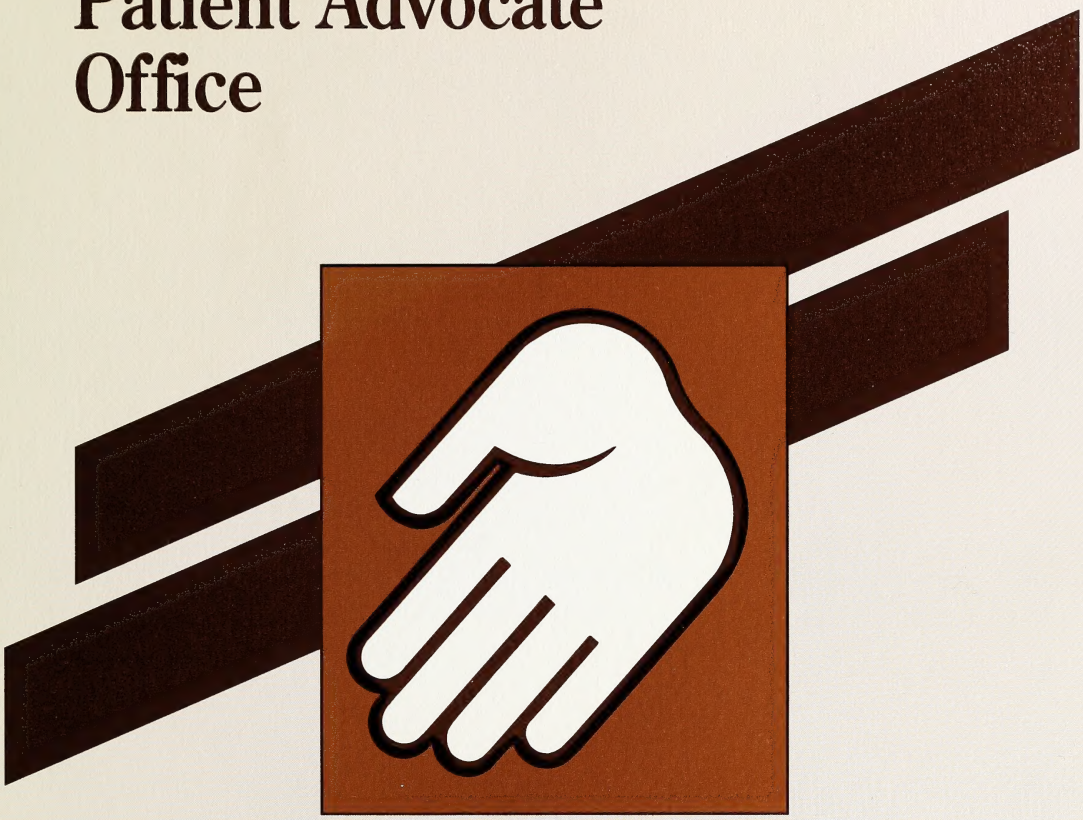
Mental Health Patient Advocate Office



ANNUAL REPORT 1991

Alberta
HEALTH

Alberta

HEALTH
Office of the Minister

323 Legislature Building, Edmonton, Alberta, Canada T5K 2B6 403/427-3665

May, 1992

The Honourable Dr. David Carter
Office of the Speaker
Legislative Assembly of Alberta
Room 325
Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Sir:

I have the honour to present the Annual Report of the Mental Health Patient Advocate for the year January 1, 1991 to December 31, 1991.

Respectfully submitted,

Nancy J. Betkowski
Minister

Alberta

HEALTH
Mental Health Patient
Advocate Office

12th Floor, Centre West Bldg., 10035 - 108 Street, Edmonton, Alberta, Canada T5J 3E1 403/422-1812

April, 1992

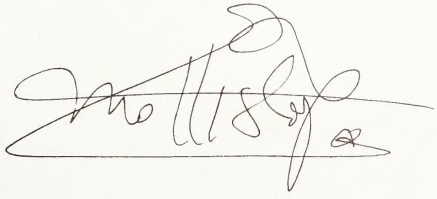
The Honourable Nancy J. Betkowski
Minister of Health
Room 323
Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Madam Minister:

In accordance with the provisions of section 47(1) of the **Mental Health Act,** I have the pleasure of submitting to you the Second Annual Report of the Mental Health Patient Advocate for your presentation to the Legislative Assembly.

This report covers the activities of the Mental Health Patient Advocate Office for the calendar year 1991.

Respectfully submitted,



M. W. Hislop, PhD, CHE
Mental Health Patient Advocate

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Mental Health Patient Advocate Office

Remarks of the Patient Advocate

1991 has proved primarily a year of consolidation as opposed to one of radical change or development for the office of the Mental Health Patient Advocate. This has involved the refining and documenting of office policies, procedures, security provisions and records protocols, as well as the organization of numerous legal and support services for the office. The latter in turn has entailed arranging for appropriate legal representation, the securing of formal legal opinions on a number of seminal issues, and the obtaining of ongoing updates from legal, clinical and other professional sources.

The office has continued to establish and maintain reciprocal relations with other agencies offering mechanisms for redressing public concerns. During this second year, these reciprocal lines of communication were extended to include contacts with similar offices in other provincial jurisdictions — the Mental Health Liaison Associate for the British Columbia Health Association, and similar officials in several advocacy related agencies in Ontario (Psychiatric Patient Advocate Office; Advocacy Centre for the Elderly; Advocacy Resource Centre for the Handicapped). The Patient Advocate personally visited the latter three organizations during the spring of 1991, in conjunction with a conference focusing on a recently tabled **Advocacy Act** and other health related protective legislation for that particular province. The ensuing information exchanges provided useful insights; and, interestingly, pointed to many more similarities than differences with respect to underlying philosophies and approaches used by the respective agencies involved.

In reviewing our own annual activities, it appears that proactive development endeavours (presentations, public relations visits, etc.) were reduced from the high levels of energy devoted to these undertakings during the office's inaugural year. This was anticipated and seems appropriate. Non-case related resource contacts, however, remained about the same; while the numbers of case files opened and issues handled increased significantly over those recorded for the 1990 calendar year. The latter case activity appears to have derived from the same size population base as for last year, with approximately 240 certified or formally committed patients residing in designated psychiatric facilities across the province at any given time. With the recent addition of Queen Elizabeth II Hospital in Grande Prairie, 14 hospitals have now been designated and have

the authority to admit formal psychiatric patients. A complete listing of facilities designated under the **Mental Health Act** may be found in the Appendices.

The principal challenges confronting the office have largely remained similar to those cited for the first year of operation: effective access to the system's formal patient population, and the difficulties deriving from current mandate constraints on the psychiatric in-patient clientele served by this office. These problems were outlined in the 1990 report; recommendations have been submitted for addressing these and other issues relating to overall office functioning at such time as amendments are considered to the **Mental Health Act** and associated **Regulations.**

In summary, this second term of office — while seemingly slower paced and not as innovatively exciting as our inaugural year — has generally proved provocative and informative. The office continues its attempts to strike the appropriate and often delicate balances required to resolve patients' presenting problems. In so doing, we may not appear as the radical, aggressively militant crusaders that might be desired by some; nor as willing to accept the *status quo* in matters relating to the care and treatment of psychiatric patients as occasionally wished by others. Rather, we persistently strive to operate somewhere in between these polarized perspectives — a judgement with which most principal players in the mental health arena appear to concur.

Mental Health Patient Advocate Office

MISSION STATEMENT

TO SERVE AS A RESOURCE TO PSYCHIATRIC PATIENTS BY:

- ASSISTING FORMAL (CERTIFIED) PATIENTS INVOLUNTARILY DETAINED IN FACILITIES DESIGNATED UNDER THE MENTAL HEALTH ACT TO UNDERSTAND AND EXERCISE THEIR RIGHTS;
- INVESTIGATING AND FACILITATING REDRESS FOR CONCERNS AND COMPLAINTS RELATING TO FORMAL PSYCHIATRIC PATIENTS;
- ASSESSING AND RECOMMENDING REVISION TO FACILITY PROCEDURES FOR:
  - ADMITTING PERSONS DETAINED UNDER THE MENTAL HEALTH ACT;
  - INFORMING FORMAL PATIENTS OF THEIR RIGHTS;
  - PROVIDING INFORMATION AS REQUIRED BY THE ACT TO GUARDIANS, RELATIVES OR DESIGNATES OF FORMAL PATIENTS;
- ADVOCATING FOR AMENDMENTS TO MENTAL HEALTH AND OTHER PROTECTIVE LEGISLATION AS THESE RELATE TO FORMAL PATIENTS;
- OFFERING A CONSUMER ORIENTED SOURCE OF INFORMATION TO PSYCHIATRIC PATIENTS AND OTHERS ACTING ON THEIR BEHALF;
- SUPPORTING CLIENT PERSPECTIVES IN THE DEVELOPMENT AND IMPLEMENTATION OF MENTAL HEALTH POLICIES AND PROCEDURES;
- PROMOTING PUBLIC, PROFESSIONAL AND CONSUMER AWARENESS OF RIGHTS RELATED ISSUES IN MENTAL HEALTH.

The Mental Health Patient Advocate Office

History and Functions

The Mental Health Patient Advocate was appointed under the **Mental Health Act** (1990) to assist patients in designated psychiatric facilities in understanding and exercising their rights, and to investigate concerns or complaints relating to certified patients involuntarily detained under the **Act.** The Patient Advocate reports directly to the Minister of Health, who in turn is required by statute to lay copies of the Advocate's annual reports before the Legislative Assembly. The Patient Advocate Office is centrally located in downtown Edmonton, and comprises a staff of four: The Mental Health Patient Advocate, Assistant Patient Advocate, Patient Advocate Representative and a clerical/administrative support person.

Anyone may call the office of the Patient Advocate for general information pertaining to the rights of psychiatric patients; or for the purpose of submitting enquiries, concerns and complaints regarding any person who is a current or former formal patient. Formal patients are individuals who are involuntarily detained in designated psychiatric facilities under either two admission or two renewal certificates as prescribed in the **Mental Health Act.** If it is uncertain whether a person who is the subject of concern has been formally certified, the Patient Advocate Office may be contacted directly and will ascertain the legal status of the patient. Telephone enquiries may be made to the Edmonton office at **422-1812;** calls from locations outside the Edmonton area may be placed free of long-distance charges through local Alberta Government RITE operators. Written complaints should contain as much detailed information as possible, be marked 'confidential' and mailed directly to:

Office of the Mental Health Patient Advocate
12th Floor, Centre West Building
10035 - 108 Street
Edmonton, Alberta
T5J 3E1.

Responses to enquiries are usually commenced on a same-day basis whenever feasible. The Patient Advocate Office initially reviews any issues presented in order to ensure that it has the authority to pursue them. If the office does not have jurisdiction, this fact will be explicitly acknowledged, and a referral made to the most appropriate source that has authority to deal with the problem. If the issue at hand is jurisdictional, we will attempt to resolve the matter informally, without introducing officious investigative protocols unless prevailing circumstances prescribe that approach. The office will make all enquiries and investigations required to resolve the matter, and has authority to engage the services of lawyers, psychiatrists or other persons to assist in the process as deemed necessary.

The Patient Advocate Office will advise the patient and other principal parties as appropriate regarding the disposition of issues explored. All enquiries and investigations are conducted in strict confidence, and the Patient Advocate Office will not disclose information pertaining to any aspect of case activity except as required by law or by the performance of its duties under the **Mental Health Act.**

Activity Summary: Proactive and Resource Contacts

Proactive endeavours were reduced from the levels of similar activities cited in the 1990 report. This decline in non-case related activity derives from an attenuation of the promotional and public relations initiatives which comprised an important component of the office's developmental phase. During our inaugural year, presentations were made to many facilities, agencies, organizations and departments of government by way of establishing an office 'profile' within the mental health services system. Although similar speaking engagements continued throughout 1991, equivalent energies were not devoted to such undertakings during this second succeeding year of operation.

Countering this reduction in promotional presentations were the numbers of resource contacts engaged in over the year — approximately 160 in all — a figure almost identical with that recorded for 1990. Resource contacts comprise both office initiated and response related activities in which the office is utilized as an information source for generic or systemic issues relating to more than one particular party or subject of call. Individual case files are not opened in these instances. The office has continued to actively 'lobby' on behalf of psychiatric patients on a number of such systemic matters: review panel procedures; proposed statutory amendments; and various facility related issues involving smoking policies, transfer protocols, comforts allowance payments, rights notification procedures, patient telephone provisions and facility dress code requirements for formal patients, to cite specific examples. In addition, periodic proactive visits to psychiatric hospitals have been conducted on an ongoing basis, with most designated facilities receiving on-site visits during the year for the purposes of meeting with patients and staff — both individually and collectively. Representatives from the Patient Advocate Office also continue to attend fatality inquiries resulting from deaths of formal patients in provincial psychiatric facilities upon routine notification from the Medical Examiner's Office.

Finally, active affiliations have continued to develop with numerous psychiatric service and consumer agencies across the province. Particularly active liaison is maintained with the Mental Health Division of Alberta Health, witnessing a variety of topics, suggestions and recommendations being raised for discussion. Networking with other organizations offering mechanisms for public redress has also been nurtured:

the Human Rights Commission, Provincial Ombudsman, Children's Advocate, Citizen's Commission on Human Rights, Health Facilities Review Committee, RCMP Public Complaints Commission, and client/patient representatives at the University of Alberta Hospitals, Michener Centre, and Alberta Hospital Ponoka, to name a few. Most recently, such contacts have been extended to include several similar agencies in Ontario and British Columbia; a few of the latter were noted earlier in the Advocate's Remarks section of this report. An abbreviated listing of the collective facility, agency, media and government office contacts made over the year — both proactive and case related — is provided in the Appendices.

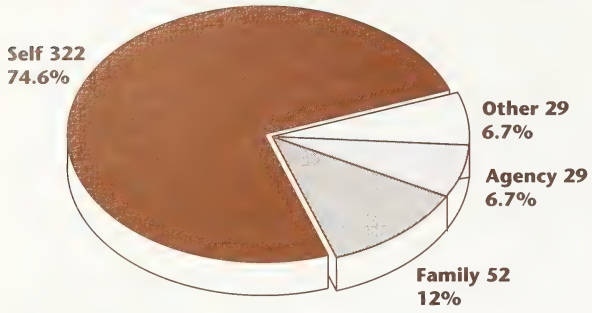
The collective issues brought to the office's attention have again this year embraced a wide range of topics, primarily legal or clinical in nature, with by far the most frequent concerns involving involuntary detention and/or treatment for certified patients. No formal investigations have been required; dispositions for all presenting problems were attained informally, without the necessity of recourse to the official investigative protocols provided in the Patient Advocate Regulation. As was the case last year, our enquiries in response to patients' concerns were met with willing and courteous cooperation from all respective facilities involved.

Overall case activity increased significantly during 1991 — reflecting a total of 432 initial case contacts or files opened, and entailing in turn 1,035 independent issues. Compared with corresponding figures for 1990, these data represent a 23.5 per cent increase in case files opened, and a 33.5 per cent increase in issues handled during the year. Recidivist requests, those from complainants continuously contacting the office on a repetitive and frequent basis, have not been redundantly counted in arriving at these numbers; nor do these figures include internal case conferences, business meetings related to office operations, or caucus sessions dealing with more systemic issues occasionally arising from collective case activity. The following graphs and tables depict various breakdowns of this overall case work; where required, these data are accompanied by appropriate definitions and interpretive comments.

Activity Summary: Case Work

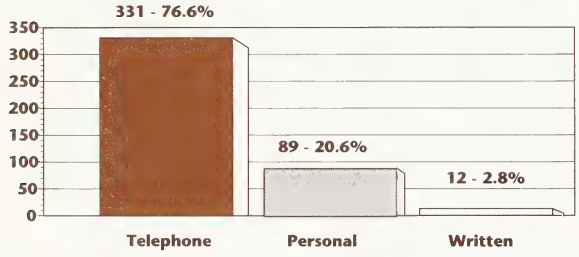
Figures I and II denote respectively the sources and manner of initial client related contacts for files opened during the year. **Figure I** provides a breakdown of initial case contacts, showing the numbers and proportions involving patients themselves, family members and agencies on their behalf, or other alternative sources (friends, neighbours, other patients, etc.). **Figure II** simply illustrates the mode or format of these initial case contacts. These data do not distinguish between office initiated contacts and those service requests originating from clients themselves or from third party referrals. Office initiated contacts derive from our periodic pre-arranged visits to designated facilities; they account for about 25 per cent of the 'self' sources of contact shown in **Figure I,** and for most of the 'personal' contacts denoted in **Figure II**. Except for a 9 per cent higher proportion of telephone contacts this year, these data are consistent with the corresponding breakdowns for 1990.

Figure I
Sources of Initial Case Contact



Total Number of Files: 432

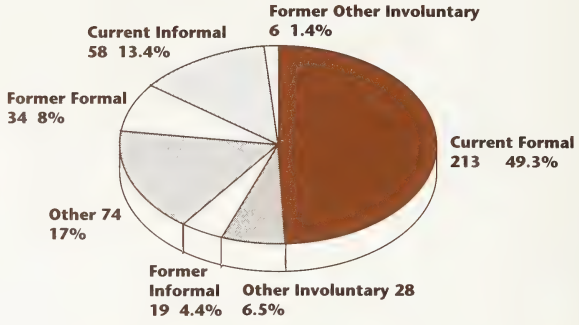
Figure II
Modes of Initial Case Contact



Total number of files - 432

Figure III illustrates categories of legal status for subjects of call in case activity during the year. The term 'subject of call' refers to patients for whom files have been opened and not necessarily to the callers or referral sources involved, though these individuals are in most instances one and the same. The phrase 'other involuntary' denotes patients detained in designated psychiatric facilities under remand orders, Lieutenant Governor warrants, compulsory care orders or single admission certificates pursuant to the **Mental Health Act;** none of these patients are jurisdictional for this office unless they become fully certified under the **Act.** The term 'other' simply represents a catch-all category for subjects of call not falling into any of the other classifications; for the most part, it reflects persons not currently in hospital and for whom previous admissions histories are not known.

Figure III
Subjects of Call

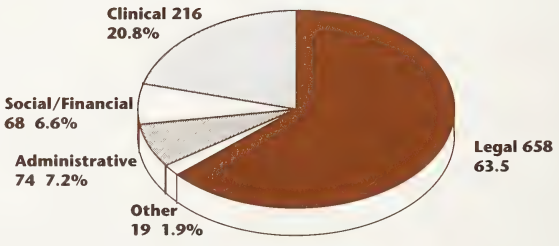


Total number of files - 432

Apart from a 7 per cent decline in the proportion of calls from informal patients, the percentages shown in **Figure III** are similar to those cited for our initial year of operation. It is an interesting observation that, for both years, only about half of all incoming service requests involve formal patients currently detained in designated mental health facilities.

Figure IV shows a breakdown of the major types of issues addressed over the year. The categories chosen would not seem to demand additional definition, and are of necessity approximate since many issues may be classified in more than one way, depending on the relative emphasis involved. A more detailed listing of the most frequently cited issues within each of the prescribed categories is provided in the Appendices.

Figure IV
Issues



Total number of issues - 1035

The most obvious divergence from last year's data is the augmented proportion of issues deemed legal in nature (up 14 per cent). This finding reflects a preponderance of rights related concerns centering around the detention and treatment provisions of the **Mental Health Act**, and also denotes that many other matters dealt with during the year entail associated legal implications. These data may also accordingly reflect a slight bias or tendency on our part to classify concerns in other categories as 'legal' because of the latter observation. This predominant legal focus underlines as well the necessity for clearly conveying to complainants that this office does not offer formal legal opinions or advice on any matter; rather, we fastidiously refer to practicing representatives of the legal community for such services.

The total number of personal, written or telephone case related contacts engaged in during the course of dealing with these issues over the year was 1,697 — a figure almost identical to that produced for 82 fewer files in 1990. The range of contacts per case runs from 1 or 2 to about 50, resulting in an overall mean of about 4 — one less than the 5 contacts per file recorded last year. Many complainants present more than one matter for assistance, however, so this average is not all that meaningful. As indicated in the 1990 report, numbers of contacts for non-jurisdictional issues tend to be characteristically lower, since these matters are most often handled by simple information provision and/or referred to other avenues of redress. It would be nice to note that the observed drop in contacts per case represented enhanced efficiencies on the part of our office. More probably, this reduction simply reflects the collective influence of increased 'Decline and Refer' dispositions combined with fewer repetitive contacts from recidivist callers over the course of the year.

Table I speaks to the disposition of issues addressed during 1991 — illustrating outcomes independently for jurisdictional as opposed to non-jurisdictional matters. Of the 1,035 issues presented to the office, 658 or 64 per cent were jurisdictional — a proportion consonant with that for last year. For both years, about half of all presenting problems were 'Resolved', with the bulk of the remaining issues being 'Declined and Referred' to other sources of redress. Again this year, the former term does not necessarily denote complete consumer satisfaction in virtually all instances, but rather reflects tangible actions and outcomes which capture all that could reasonably be expected or accomplished by this office relative to the matter at hand. Other categories of disposition would seem to be adequately defined in the 'Legend' without need for further elaboration.

Table I
Issues - Disposition

Period: January 1, 1991 - December 31, 1991

Disposition	Jurisdictional	Non-Jurisdictional	Total No.	Percent
R	452	89	541	52.3
U	35	9	44	4.2
D	18	22	40	3.9
D&R	129	248	377	36.4
NR/NA	22	9	31	3.0
NR/RNF	2	0	2	0.2
Total Issues	658	377	1035	100

Legend:

R – **Resolved**
(fully or partially; see previous note)

U – **Unsubstantiated**
(verification not obtained, or issue remains sufficiently undefined as to preclude pursuit)

D – **Discontinued**
(enquiries/investigation dropped by the office or complainant due to lack of ability/need to further pursue; this can include an inability to establish jurisdiction)

D&R – **Declined and Referred**
(pertains primarily to non-jurisdictional issues when information or informal assistance are inappropriate or insufficient to resolve the matter; for jurisdictional concerns, denotes either that the patient is capable of pursuing remedy via established mechanisms but has made no attempt to do so, or that ultimate resolution is beyond the scope of office authority)

NR/NA – **Not Resolved**
(remedy not available)

NR/RNF – **Not Resolved**
(recommendations not acted upon, or investigation/follow-up not yet completed)

Index to the Appendices

Appendices

Agency Contacts

Government Departments and Agencies:

Alberta Attorney General
- Chief Medical Examiner
- Civil Law Division
- Family Court Services
- Public Trustee

Alberta Family and Social Services
- Appeal and Advisory Secretariat
- Children's Advocate
- Deputy Minister
- Income Support Services
- Michener Centre (Red Deer)
- Public Guardian
- Regional Offices
- Seniors Advisory Council

Alberta Health
- Deputy Minister
- Finance and Administration Division
- Health Facilities Review Committee
- Human Resource Services Division
- Legislative Research and Planning Branch
- Mental Health Division
- Minister
- Regional Mental Health Clinics
- Review Panel Chairpersons

Alberta Labour
- Building Standards Branch
- Human Rights Commission

Provincial Ombudsman
Official Opposition
Liberal Opposition

Individual and Media Resource Contacts:

- Edmonton Journal
- Globe and Mail (Ontario)
- private citizens (37)
- representatives of the legal community (11)

Facilities:

- Alberta Hospital Edmonton
- Alberta Hospital Ponoka
- Calgary General Hospital
- Foothills General Hospital (Calgary)
- Fort McMurray Regional Hospital
- Grey Nuns Hospital (Edmonton)
- Holy Cross Hospital (Calgary)
- Lethbridge Regional Hospital
- Medicine Hat Regional Hospital
- Misericordia Hospital (Edmonton)
- Queen Elizabeth II General Hospital (Grande Prairie)
- Royal Alexandra Hospital (Edmonton)
- University of Alberta Hospitals (Edmonton)

Community Agencies and Organizations:

- Advocacy Centre for the Elderly (Ontario)
- Advocacy Resource Centre for the Handicapped (Ontario)
- Alberta Health Care Association
- Alberta Mental Health Nurses Interest Group (Calgary, Edmonton)
- Alberta Senior Citizens Advisory Council
- Alberta Union of Provincial Employees
- British Columbia Health Association
- Calgary Association of Self Help
- Canadian Mental Health Association (Provincial, Regional)
- Centre for Women (Edmonton)
- Citizen Advocacy Society of Edmonton
- Citizen's Commission on Human Rights (Alberta, British Columbia)
- Community Connections (Edmonton)
- Depressive Disorders Self Help Group (Edmonton)
- Edmonton Family and Community Services
- Edmonton Home Care Services
- Inter-Hospital Designation Committee (North-Central Alberta)
- Legal Aid Society of Alberta
- Psychiatric Patient Advocate Office (Ontario)
- Royal Canadian Mounted Police Public Complaints Commission
- Schizophrenia Society of Alberta
- University of Alberta Faculty of Nursing

Prevalent Issues

The following comprise an abbreviated listing of predominant issues dealt with during the year. Overall, these were similar to those addressed in 1990. Only a few of the most frequently cited topics within each prescribed category are listed; items marked '*' denote exceptionally common issues.

Legal:

- Abuse allegations
- Commitment/certification procedures:
  - admission/renewal certificates (information)
  - certificate copies not received
  - Information sworn before judge
  - police apprehension
  - single admission certificates
- Confidentiality of patient records
* - Involuntary detention and associated rights
* - Legal representation
- Records access
- Review Panels:
* - appeals to Court of Queen's Bench
  - composition/process
* - notice of hearing date
- Treatment rights re:
* - competent formal patients
  - incompetent formal patients

Clinical:

* - Change of psychiatrist
- Discharge plans
- Hospital privileges:
  - leave requests
* - loss of (general)
- Transfer requests (internal/external)
- Treatment plans:
* - general
* - medication concerns

Administrative:

- Personal effects (missing)
- Smoking policies
- Telephone access

Social/Financial:

- Community services (inadequacies)
- Financial assistance

Other:

- Mental health services (systemic concerns)
- Patient Advocate Office (information)

YOUR RIGHTS UNDER THE MENTAL HEALTH ACT

Alberta
HEALTH
Mental Health Patient
Advocate Office

IF YOU ARE A FORMAL (INVOLUNTARY) PATIENT UNDER THE **MENTAL HEALTH ACT** YOU HAVE NUMEROUS RIGHTS. THE MENTAL HEALTH PATIENT ADVOCATE OFFICE HAS SUMMARIZED A FEW OF THESE RIGHTS FOR YOUR INFORMATION.

RIGHTS REGARDING YOUR DETENTION

YOU HAVE THE RIGHT to be informed of the reasons for your involuntary detention, and to receive copies of your admission or renewal certificates.

YOU HAVE THE RIGHT to appeal being kept in hospital against your will by applying to the Review Panel.

> The hospital will provide you with the name and address of the Review Panel Chairman, an application for review (Form 12), and any assistance you may require in making your application to the Review Panel.

YOU and your lawyer HAVE THE RIGHT to be present when evidence is given at the Review Panel hearing, and to question any person who gives evidence.

YOU HAVE THE RIGHT to appeal a decision of the Review Panel to not cancel your admission or renewal certificates.

RIGHTS REGARDING YOUR TREATMENT

YOU HAVE THE RIGHT to refuse a treatment if you are mentally competent to make your own treatment decisions.

> If you object to treatment, your doctor may apply to the Review Panel. The Review Panel will review your situation, and either support your objection or support your doctor's application for a compulsory treatment order.

YOU HAVE THE RIGHT to apply to the Review Panel for a hearing to appeal your doctor's certificate (Form 11) stating that you are not mentally competent to make your own treatment decisions.

YOU and your lawyer HAVE THE RIGHT to be present when evidence is given at Review Panel hearings, and to question any person who gives evidence.

YOU HAVE THE RIGHT to appeal a treatment order or other written decision of the Review Panel.

GENERAL RIGHTS

YOU HAVE THE RIGHT to contact and receive visits from your lawyer at any time.

> You may arrange legal representation for your Review Panel hearing if you so desire. Appeals of Review Panel decisions are made to the Court of Queen's Bench, and will require the assistance of a lawyer.

YOU HAVE THE RIGHT to confidentiality for all clinical records pertaining to your care in hospital, and for any communications written by you or to you. Hospital staff cannot open, read, withhold or interfere with the delivery of your correspondence.

YOU HAVE THE RIGHT to receive visitors during visiting hours fixed by the hospital unless your doctor thinks that visitors would be harmful to your health.

YOU HAVE THE RIGHT to contact the Office of the Mental Health Patient Advocate regarding any questions or concerns that you might have with respect to your rights or care while in hospital.

FOR ADDITIONAL INFORMATION CALL THE MENTAL HEALTH PATIENT ADVOCATE OFFICE AT:

- EDMONTON: **422-1812**
- OTHER CENTRES IN ALBERTA:
  CALL LOCAL **RITE** OPERATOR – ASK FOR **422-1812**
  (NO LONG DISTANCE CHARGES APPLY)

Mental Health Act
Part 6
Mental Health Patient Advocate

Definition

44 In this part, "Patient Advocate" means the Mental Health Patient Advocate appointed under section 45.

Patient Advocate

45(1) The Lieutenant Governor in Council shall appoint a Mental Health Patient Advocate, who shall investigate complaints from or relating to formal patients and exercise such other powers and perform such other duties as are prescribed in the regulations.

(2) The Lieutenant Governor in Council may make regulations

(a) respecting the powers and duties of the Patient Advocate;

(b) requiring boards to make available any information referred to in the regulations for the purpose of an investigation by the Patient Advocate.

Employees and Advisors

46(1) In accordance with the **Public Service Act** there may be appointed any employees required to assist the Patient Advocate in performing his duties under this Act.

(2) The Patient Advocate may engage the services of lawyers, psychiatrists or other persons having special knowledge in connection with his duties under this Act.

Annual Report

47(1) As soon as possible after the end of each year, the Patient Advocate shall prepare and submit to the Minister a report summarizing his activities in that year.

(2) On receiving a report under subsection (1), the Minister shall lay a copy of the report before the Legislative Assembly if it is then sitting, and if not, within 15 days after the commencement of the next ensuing sitting.

Mental Health Regulation

Designation of facilities

2(1) The following places are designated as facilities for the care, observation, examination, assessment, treatment, detention and control of persons suffering from mental disorder:

a The Alberta Hospital Edmonton;

b The Alberta Hospital Ponoka;

c The Calgary General Hospital – Bow Valley Centre;

d Canadian Forces Hospital Cold Lake;

e The Foothills Provincial General Hospital, Calgary;

f The Holy Cross Hospital, Calgary;

g Misericordia Hospital, Edmonton;

h Royal Alexandra Hospital, Edmonton;

i University of Alberta Hospitals, Edmonton;

j Grey Nuns Hospital, Edmonton;

k Lethbridge Regional Hospital;

l Medicine Hat Regional Hospital;

m Fort McMurray Regional Hospital;

n Queen Elizabeth II Hospital, Grande Prairie.

(2) The Forensic Services Unit of The Calgary General Hospital and The Alberta Hospital Edmonton are designated as facilities for the purposes of section 13 of the **Act.**

Order In Council

APPROVED AND ORDERED, o.c. 716/89

W. HELEN HUNLEY, December 14, 1989

Lieutenant Governor, Edmonton, Alberta

Upon the recommendation of the Honourable the Minister of Health, the Lieutenant Governor in Council, pursuant to section 45(2) of the **Mental Health Act,** SA 1988 cM-13.1, makes the regulation in the attached Appendix, being the **Patient Advocate Regulation.**

DON R. GETTY
Chairman

Patient Advocate Regulation

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Definitions

1 In this Regulation,

(a) "Act" means the **Mental Health Act;**
(b) "formal patient" includes a person who has been a formal patient;
(c) "Patient Advocate" means the Mental Health Patient Advocate appointed under the **Act.**

Delegation

2 The Patient Advocate may in writing delegate to any person holding any office under him any power or duty conferred or imposed on him under the **Act** or the regulations under the **Act,** except the power of delegation in this section and the power or duty to make any report under the **Act** or regulations.

Power to act on a complaint relating to a formal patient

3(1) On receipt of a complaint from or relating to a formal patient, the Patient Advocate

(a) shall notify the board of the facility in which the formal patient is detained of the nature of the complaint,

(b) shall notify the formal patient, in writing, that a complaint has been received, of the nature of the complaint and of any investigation arising from the complaint,

(c) if a person other than a formal patient is named in the complaint, shall notify that person of any investigation arising from the complaint, and

(d) shall make any contact with the formal patient and conduct any investigation of the complaint that the Patient Advocate considers necessary.

(2) If a complaint relates to a formal patient who has been transferred from one facility to another, the notice for subsection (1)(a) shall be provided to the boards of both facilities.

(3) A formal patient and a person who has received notice of an investigation under subsection (1)(c) has the right to make representations to the Patient Advocate relating to the complaint.

(4) The Patient Advocate may investigate a complaint only as it relates to the period during which the person who is the subject of the complaint was subject to 2 admission certificates or 2 renewal certificates.

(5) On receipt of a complaint, the Patient Advocate shall provide to the formal patient and to the complainant, as far as is reasonable, information respecting the following:

(a) the rights of the formal patient under the **Mental Health Act;**

(b) how the formal patient may obtain legal counsel;

(c) how to make an application to the review panel;

(d) how to commence an appeal to the Court of Queen's Bench.

Power to initiate an investigation without a complaint

4 The Patient Advocate may, without receiving a complaint, initiate and conduct an investigation into

(a) any procedure of a facility relating to the admission of a person detained in a facility pursuant to the **Act,** and

(b) any procedure of a facility

(i) for informing a formal patient of his rights, or

(ii) for providing information as required by the **Act** to guardians, nearest relatives or designates of a formal patient.

Procedures

5(1) The Patient Advocate

(a) shall maintain a record relating to every complaint and every investigation under this Regulation, and

(b) may make any inquiries he considers necessary to conduct an investigation.

(2) The Patient Advocate shall notify the board of a facility of his intention to contact a patient or a formal patient of the facility and the board shall grant the Patient Advocate access at all reasonable times.

(3) The Patient Advocate shall notify the board of a facility of his intention to carry out an investigation that relates to the facility, whether the investigation arises pursuant to section 3 or 4.

(4) The Patient Advocate is not required to hold a hearing.

(5) If the Patient Advocate requests in writing from the board of a facility

(a) any policy or directive of the facility,

(b) any medical or other record or any information, file or other document relating to a patient or a formal patient who is the subject of an investigation under section 3 or 4, or

(c) any other information, file or document relating to an investigation under section 3 or 4, the board shall, within a reasonable time after receipt of the request, provide access to the materials requested.

(6) If the Patient Advocate so requests, the board shall provide a copy of any materials requested under subsection (5).

Disclosure

6 The Patient Advocate shall not disclose information obtained in the course of an investigation except as required by law or in the performance of his duties under the **Act** or this Regulation.

Report

7(1) On completion of an investigation, the Patient Advocate shall prepare and send to a board a copy of the report of the investigation.

(2) A report that contains recommendations shall state the reasons for the recommendations.

(3) If a report is sent to a board under subsection (1) and within a reasonable time after the report is sent to the board the Patient Advocate is of the opinion that the board has not taken appropriate action on any recommendation, the Patient Advocate shall send a copy of the report and the board's response, if any, to the Minister.

Frivolous complaint

8 The Patient Advocate may refuse to investigate or cease to investigate a complaint if in his opinion

(a) the subject matter of the complaint is trivial,

(b) the complaint is frivolous or vexatious, or

(c) having regard to all of the circumstances, no investigation is necessary.

Notice to complainant

9 The Patient Advocate

(a) shall inform a formal patient of the disposition of any complaint that relates to the formal patient, and

(b) may inform a complainant of the disposition of any complaint initiated by the complainant.

Coming into force

10 *This Regulation comes into force on January 1, 1990.*